

INTRODUCTION:

The purpose of this pamphlet is to help you, as the non-custodial parent, understand what enforcement actions the Division of Child Support Enforcement (DCSE) or its agents can take against you. DCSE can enforce support orders for unpaid support in many ways. The federal government may also enforce unpaid support.

This pamphlet (1) provides answers to some typical questions that non-custodial parents ask, (2) describes the actions that DCSE can take, and (3) describes the actions that the federal government can take.

QUESTIONS AND ANSWERS:

What is unpaid support?

Unpaid support is any amount of money that you have been ordered to pay for child support, spousal maintenance, and medical bills, and that you have not paid. Unpaid support may also be known as “arrear” or “past support.” A court may order “past support” in a paternity case (*where the court determines the identity of the father*). DCSE will also collect the interest that accrues on all unpaid support at ten percent per annum, which means ten percent per year.

Why do I owe unpaid support?

There are several ways in which you may have unpaid support. Here is a list of possible reasons:

- 1. From the time that the court orders you to pay support, if you do not pay the complete amount that was ordered, the remaining amounts are unpaid support.
- 2. If it was necessary to establish paternity in your case, the court may enter a judgment for support for up to three years prior to the time of the court order, in addition to a monthly support amount. When these amounts are not paid, you will have unpaid support.

3. The court may have ordered you to reimburse the custodial parent for some medical expenses for the child. If the court ordered you to pay some of those expenses and you have not paid them, those amounts are unpaid support.

4. Interest accrues on all unpaid support at ten percent per annum. This means that if you do not pay your full monthly support, interest accrues on what you did not pay. A judgment for past support, spousal maintenance, and medical expenses also accrue interest (*but interest does not accrue on interest*).

5. Arizona law provides for a monthly handling fee for support payments and other administrative costs. If you do not pay the monthly fee with your support payment, your account will show a balance.

6. If your employer issues paychecks on a weekly or bi-weekly basis, you may also have unpaid support. The court order is for a monthly support amount. When employers pay on a weekly or bi-weekly basis they may divide the annual amount of support by the number of paychecks issued in the year. This results in your monthly support amount being underpaid ten months of the year and overpaid in two months. During the ten months of underpayment, your case will have unpaid support and accumulate interest.

How will I know when DCSE is taking action against me?

If DCSE begins to take any action against you, it must notify you. The notice will specify the type of action that DCSE intends to take and the amount of support (*with or without interest*) that it believes that you owe. It is therefore very important that you tell DCSE your address so that you will receive these notices.

Is there any way to contest an action that DCSE proposes to take against me?

Yes. The notice that DCSE will send you to tell you that it intends to take an action against you will contain instructions for requesting an administrative review. These instructions include the time for you to request the review, what documentation you will

need to prove your claim (*if you do not believe that you owe unpaid support, for example*), and where to mail your request. However, if DCSE refers your case to court for contempt, you will be served with court papers telling you when you must appear in court; you will not be able to request an administrative review with DCSE.

STATE ENFORCEMENT ACTIONS:

Arizona law gives DCSE many enforcement remedies, but the law requires DCSE to notify you before taking any of the following enforcement actions (*except when issuing an Administrative Income Withholding Order, for which you will receive notice after the order has been issued to your employer*). The notices will include instructions on how, where, and when to request an administrative review that may stop the action from being taken.

1. Administrative Income Withholding Order

In 1998, Arizona adopted a law pursuant to the federal welfare reform act (*the Personal Responsibility and Work Opportunity Act, known as “PRWORA”*) which allows DCSE to issue, without prior notice to you, an income withholding order to collect support from your earnings. This order is called an “administrative income withholding order” or “order of assignment.” DCSE may issue an order of assignment to withhold the amount of current support that the court has ordered you to pay and it may add an amount for any unpaid support that you owe.

The law provides a formula for determining the correct amount of payment on unpaid support:

If your unpaid support is equal to at least two months’ worth of support but not more than six months’ worth of support, an additional 25% of the current support order may be withheld from your earnings.

If your unpaid support is equal to or greater than six months’ worth of support but less than a year’s worth of support, an additional 33% of the current support order may be withheld from your earnings.

When a withholding order is served to your employer, your employer must provide you, within ten days, a notice of withholding. The notice will inform you of your option to request an administrative review. After the review by DCSE, the withholding may be stopped or modified.

The State of Arizona only allows DCSE to withhold a maximum of 50% of your disposable income regardless of the amount of your support order. However, you are still responsible for any unpaid monthly amount.

2. State Income Tax Refund Offset

Arizona law allows DCSE to take (*or “offset”*) a tax refund that the state owes you. DCSE refers a taxpayer who owes past-due support of at least \$50 to the Department of Revenue. DCSE may offset the refund up to the total amount of past-due support (*including interest*) that you owe. DCSE may keep an income tax refund for unpaid support and other debts (*including processing fees*) that are owed to the state.

3. Liens on Property

If you owe two months or more in unpaid support, a lien is automatically placed on your property, including houses, cars, boats, etc. When your property has a lien on it, the title to that property is affected until you pay the unpaid support. DCSE may perfect the lien by filing a notice with the appropriate state or county entity. Potential buyers, title companies, and lenders may then know that the lien exists on your property. The lien applies to property that you own at the time the lien is recorded and to all property that you acquire later.

4. Asset Seizure

DCSE may seize (*take*) your bank accounts or other property in order to collect unpaid support if you owe twelve months or more of unpaid support or if the court has issued a support judgment.

A. Bank Accounts

DCSE may take money that you have in any financial institution (*including banks, credit unions, federal and state savings and loan associations, trust companies, mutual funds and other similar institutions*).

B. Other Property
DCSE may seize and sell other property that you own in order to collect unpaid support.

5. Unemployment Insurance Withholding
DCSE may cause money to be withheld from your unemployment benefits to meet your monthly obligations.

6. Reporting Arrears to Credit Reporting Agencies
DCSE reports all support cases to credit reporting agencies. When you have unpaid support on your credit report, it may be more difficult to receive loans, acquire credit cards, and make large purchases. The credit report will reflect the amount of support you owe and your payments.

7. Referral to Court for Suspension or Revocation of Licenses
If you owe two months or more in unpaid support, DCSE may request the court to suspend or revoke your driver’s license, your professional or occupational license (*such as a contractor’s license*), or recreational license (*such as a big game hunting license*).

Remember, only the court can actually suspend or revoke a license, but you may request an administrative review with DCSE to prevent DCSE from referring the matter to court in the first place.

8. Referral to Court for Other Enforcement
DCSE may also refer your case to the court for other enforcement measures. These measures include garnishment of your property or contempt of a court order.

FEDERAL INTERSTATE ENFORCEMENT ACTIONS:

1. Enforcement and Registration of Other States’ Orders
Pursuant to the Uniform Interstate Family Support Act (UIFSA), DCSE generally may enforce other states’ support orders and income withholding orders in the same manner as outlined above for Arizona orders. DCSE may also register other states’ orders with the court and request that the court enforce them.

2. Interstate Income Withholding
UIFSA also permits any person to send another state’s income withholding order to the employer of a person who owes support even if that employer is in another state.

FEDERAL ENFORCEMENT ACTIONS:

1. Federal Income tax Refund Offset
Federal law allows DCSE to ask the U.S. Department of the Treasury to take (*or “offset”*) an income tax refund that the IRS owes you if either of the following conditions is true: your child’s custodial parent is receiving public assistance and you have not made a support payment in three months and have unpaid support of at least \$150, or the custodial parent of your child is not receiving public assistance and you owe unpaid support of at least \$500. DCSE may offset the refund up to the amount of unpaid support that you owe.

2. Federal Administrative Offset
If you owe at least \$150 in past-due support, DCSE may request the federal government to withhold and send to DCSE certain payments that the federal government owes you. This is called a federal administrative offset. Listed below are some federal benefits or payments subject to the offset:

A. Retirement Benefits. Up to 25% may be deducted from your Federal retirement benefits.

B. Vendor Payments. If you have provided a service or performed work for the federal government, it may be offset up to 100% of its payment to you (*up to the amount of unpaid support that you owe*).

C. Federal salary offset. If you work for the federal government, it may offset up to 60% of your disposable earnings for any pay period. If you are supporting more than one family, it may offset up to 50% of your disposable income for any pay period. (*Disposable income is the amount of money that you receive after state and federal taxes and other required deductions come out of your paycheck.*)

D. Miscellaneous payments, such as expense and travel reimbursement payments, may be offset up to 100%.

Some benefits, such as social security payments, Railroad Retirement payments and Veteran’s Affairs benefits are excluded from the federal offset program.

3. Passport Denial or Revocation
DCSE may report any unpaid support that is equal to or greater than \$5,000 to the U.S. Secretary of State, who may then either refuse to issue a passport to you or may revoke your current passport in order to prevent you from leaving the country. When you pay your unpaid support, the federal government will issue a new passport to you or lift any restrictions that it placed on your old passport.

Under the Americans with Disabilities Act (ADA), the Department must make a reasonable accommodation to allow a person with a disability to take part in a program, service, or activity. For example, this means that if necessary, the Department must provide sign language interpreters for people who are deaf, a wheelchair accessible location, or enlarged print materials. It also means that the Department will take any other reasonable action that allows you to take part in and understand a program or activity, including making reasonable changes to an activity. If you believe that you will not be able to understand or take part in a program or activity because of your disability, please let us know of your disability needs in advance if at all possible. This document is available in alternative formats by contacting (602) 252-4045.



**Department of Economic Security
Division of Child Support
Enforcement**



**A NONCUSTODIAL
PARENT’S GUIDE TO
TITLE IV-D
ENFORCEMENT
ACTIONS**

Equal Opportunity Employer/Program
Disponible en español.

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